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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,196	02/11/2002	Toshihiro Takagi	3064IT/50912	2937
7590 07/30/2008 Crowell & Moring, L.L.P. P.O. Box 14300 Washington, DC 20044-4300				
EXAMINER NEWLIN, TIMOTHY R				
ART UNIT		PAPER NUMBER		
2623				
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07/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/071,196

Applicant(s)

TAKAGI ET AL.

Examiner

Timothy R. Newlin

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623

Continuation of 11.

Applicant argues that Liebenow does not disclose a comparison of keyboard inputs with channel numbers stored in memory. Even assuming-arguendo-that it does not, claim 1 does not require such a comparison. Liebenow discloses everything required by the plain language of the last limitation: a) the control unit refers to memory to select a mode [col. 8, 30-32]; b) the user has operated an input key [col. 8, 25-29]; and c) the input key does not coincide with a stored channel number [rather, the input keys coincide with user profiles, cols. 7-8, 63-16]. Claim 1 does not contain any specific comparison requirement.

With respect to the numerical inputting key limitation, it is met by the user pressing a designated, numerically labeled key [col. 8, 24-29]. As stated, in the final rejection mailed 2/15/2008:
[The] keys labeled USER 1 and USER 2 are numeral inputting keys insofar as they impart a numerical designation. The word "USER" label [sic] is merely a redundant label for user convenience; the numeral is the significant message [information] conveyed by the press of the key.

The alternative input method discussed in Liebenow of typing in an identity is not relied upon.

With respect to claim 5, applicant argues that the term "pattern" should be interpreted to mean "more than one input." Although the specification does give examples of "555" and "777" as input patterns, it does not limit the input to three digits, leaving open the possibility that a greater or lesser number of key inputs could constitute the input pattern. Likewise, the claim itself in no way limits the pattern. Therefore the broad interpretation of the term "pattern" is maintained and is accordingly met by Liebenow at col. 5, 16-18. If the applicants intend for the claim to be limited to multiple inputs, expressing the claim in that manner would be straightforward. The absence of any such language tends to support a broad reading of "pattern."

Applicant traverses the rejection of claims 2 and 6 on two grounds. First, applicant contends that no prima facie case of obviousness has been established because no evidentiary support is given that the use of a shift-type key input is common and well-known. To clarify, the rejection does not rely on the reasoning given in the response to arguments section cited by applicant. That reasoning merely clarifies what would be within the knowledge of one of ordinary skill with user interfaces. The §103 rejection itself is based on the reasoning originally presented in the rejection, viz.:

It would have been obvious...to use the directional keys of Alexander to accomplish the operation mode selection function taught by Liebenow. The motivation is to provide a simple interface utilizing existing buttons to accomplish the desired function, rather than add buttons to the remote control.

Thus, one of ordinary skill would readily recognize that the input keys taught by the references could be used in concert to select additional identities that could not be accommodated by the existing buttons. The applicant's second argument is that using a shift type input is actually undesirable. However, the Office position is that although the dual key input is arguably more complicated than a single button press, the slight additional complexity is outweighed by the benefit of a simplified remote device with fewer buttons. Therefore, the rejection of claims 2 and 6 stands.

The rejection of claims 3 and 11 is maintained for the reasons similar to those stated above in connection with claims 2 and 6. By assigning a different function to a button that is held for a predetermined time rather than pressed and released quickly, additional functionality is imparted to the remote without having to add buttons to or increase the size of the input device. Any additional complexity (which is minimal) is outweighed by the simplification and enhanced functionality of the input device.

The remaining rejections are traversed based on dependency arguments. Since the rejections of the independent claims are maintained as discussed above, the dependent claims also remain rejected.

With respect to claim 7, it is acknowledged that the rejection appeared under the wrong section, although it is not listed specifically in the 102 heading. This was due to typographical rather than substantive error. The language of the rejection ("Official notice" and "one of ordinary skill") makes it clear that claim 7 is actually rejected under section 35 USC 103, and it remains rejected on that basis.